

Any payment on the purchase price of an item being sold must be reported as gross receipts for Illinois sales tax purposes when the item that is being sold has been identified to a contract under the standards set forth in Section 2-501 of the Uniform Commercial Code, 810 ILCS 5/2-501 (1996 State Bar Edition). See 86 Ill. Adm. Code 130.430. (This is a GIL).

July 23, 1999

Dear Mr. Xxxxx:

This letter is in response to your letter dated June 18, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

We are writing a letter of inquiry regarding the point at which sales tax is due. Our company sells gasoline and diesel products. Many of our customers choose to prepay a fuel contract, buying at times when the price is low, and requesting delivery as needed. No product is delivered at the time when money changes hands. COMPANY was told by a member of the Sales Tax Division that we are required to pay all tax money at the point when money is exchanged, regardless of product delivery. This presents a bookkeeping problem, as the Motor Fuel Division requires all tax paid on point of delivery. According to the Legal Adviser from your department, whom we spoke with a few weeks ago, this matter is covered in Legal Letter 92-0350. Please send us a copy of this letter. We would also request a signed letter of reply that will allow COMPANY a point of reference, enabling us with authority to pay all tax, including sales tax, at the point when product is delivered.

If any questions, please call ####.

Attached, please find General Information Letter 92-0350, which you requested. For general informational purposes, we are enclosing a copy of 86 Ill. Adm. Code 130.430, which is the regulation related to Deposit or Prepayment on Purchase Price. Please note that any payment on the purchase price must be reported in gross receipts for Illinois sales tax purposes when the item that is being sold has been identified to a contract under the standards set forth in Section 2-501 of the Uniform Commercial Code, 810 ILCS 5/2-501 (1996 State Bar Edition). Section 2-501 provides, in part, that:

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"identification can be made at any time and in any manner explicitly agreed to by the parties. In the absence of explicit agreement identification occurs (a) when the contract is made if it is for the sale of goods already existing and identified; (b) if the contract is for the sale of future goods other than those described in paragraph (c), when goods are shipped, marked or otherwise designated by the seller as goods to which the contract refers; (c) when the crops are planted or otherwise become growing crops or the young are conceived if the contract is for the sale of unborn young to be born within 12 months after contracting or for the sale of crops to be harvested within 12 months or the next normal harvest season after contracting whichever is longer."

As a general proposition, in the situation you have described, the fuel would not be identified to your contract until you deliver it to the customer.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis  
Associate Counsel

MAJ:msk

Enc.